



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

December 17, 2004

Comac Pump & Well, LLC
Attn: Scott M. Costa
13 New Boston Road
Kingston, NH 03848

Re: Docket No. AF 04-083 – Comac Pump & Well, LLC

Dear Mr. Costa:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in the above-captioned matter executed by Harry T. Stewart, P.E., Water Division Director, and accepted by Commissioner Michael P. Nolin on December 16, 2004. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael S. Rafani,
Legal Assistant

cc: Harry T. Stewart, P.E., Director, DES Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
Rick Schofield, DES WD
DES Public Information Officer



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Michael P. Nolin
Commissioner

Comac Pump & Well, LLC
Attn: Scott M. Costa
13 New Boston Rd
Kingston, NH 03848

Re: Well constructed at 16 Mill Cove Rd,
Alton, NH.

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 04-083

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Water Division, and Comac Pump & Well, LLC, pursuant to RSA 482-B:8 and :16. This Administrative Fine by Consent is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Water Division ("DES") is a duly constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive, Concord, NH 03302-0095.
2. Comac Pump & Well, LLC ("Comac") is a New Hampshire corporation having a mailing address of 13 New Boston Rd, Kingston, NH 03848.

III. BACKGROUND

1. RSA 482-B regulates water well contractors and pump installers and establishes the NH Water Well Board ("Board"). Pursuant to rulemaking authority conferred by RSA 482-B:4, the Board has adopted rules to implement this regulatory program (We 100 to 1000, "Water Well Rules"). Under RSA 482-B:8 and :16, DES has concurrent authority with the Board to enforce RSA 482-B and the Water Well Rules.
2. RSA 482-B:16, II authorizes the Commissioner of DES to impose administrative fines of up to \$2,000 for each offense for violations of RSA 482-B or of any rule adopted or license issued under that statute. Pursuant to rulemaking authority contained therein, the Commissioner has adopted Env-C 616 to establish the schedule of fines for such violations.
3. Comac is a licensed water well contractor in the state of New Hampshire, holding license No. 253.
4. On June 21, 2004 DES received a written complaint from Gilford Well Company, Inc., requesting an investigation of the installation of a well constructed at 16 Mill Cove Road, Alton, New Hampshire.

5. Division staff conducted a site inspection of the well installation and interview with the property owner, Mr. Arthur Richardson, on July 9, 2004.
6. On August 2, 2004 the Board received the well completion report from Comac for the well constructed at 16 Mill Cove Rd, Alton, NH.
7. On September 14, 2004 Comac returned to the Richardson property, removed the existing 32 foot casing, reamed the 8 inch bore hole down to a depth of 50 feet, re-installed 50 feet of casing and grouted the annulus. A revised well completion report was subsequently submitted along with the required non-conforming well location form on November 2.

IV. ALLEGATIONS

1. During the site inspection Division staff observed that the well was constructed 43 feet from the on-site waste disposal system (septic tank). We 602.05 (c) requires a 75-foot setback from septic tanks.
2. During the site inspection Division staff also observed the top of the well was finished below ground surface. We 602.06 (e)(1) requires an 8 inch minimum wellhead height above grade.
3. The well completion report received by Comac indicated the well was constructed on April 15, 2004. The report was received by the Board on August 2, a period of 110 days. RSA 482-B:10 and We 801.03(c) require that the report be filed within 90 days of completion of the well.
4. The well completion report stated that the well was constructed with 32 feet of steel well casing. We 602.05 (i)(3) requires special methods of construction where wells are constructed closer than 75 feet from an observed source of contamination. No less than 40 feet of casing is required, in accordance with We 602.05 (j), for wells constructed less than 75 feet from a septic tank.

V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING

1. For a violation of We 602.05 like that set out in allegation (1), Env-C 616.03(c)(1) authorizes a fine of \$500 for the first violation.
2. For a violation of We 602.06(e)(1) like that set out in allegation (2), Env-C 616.03(f) authorizes a fine of \$200 for each violation.
3. For a violation of We 801.03(c) like that set out in allegation (3), Env-C 616.02(e) authorizes a fine of \$1 per day for each calendar day after 90 days following completion of the well up to \$100 per report. The report was submitted 20 days late, therefore, the calculated fine authorized is; 20 days x \$1 per day, or \$20.

4. For a violation of We 602.05(i)(3) like that set out in allegation (4), Env-C 616.03(d)(1) authorizes a fine of \$500 for the first violation.

5. On or about September 14, 2004 Comac completed remediation work by returning to the Richardson property and correcting the well code violations at the site at their expense. In light of this remediation the fines totaling \$1,000 set out in Paragraphs V.(1) and V.(4) above are waived.

6. Comac agrees to pay the remaining fines set out in Paragraphs V.(2) & V.(3) above, totaling \$220.00, upon execution of this agreement.

7. Payment under paragraph 6 shall be paid by certified check made payable to: Treasurer, State of New Hampshire, and mailed to:

DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095

8. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

9. By executing this Administrative Fine by Consent, Comac waives its right to a hearing on or any appeal of the administrative fines identified in Paragraphs V.(1) through V.(4), and agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction.

10. The effective date of this Administrative Fine by Consent will be the date on which it is signed by an authorized representative of Comac, the Director of the Water Division, and the Commissioner of DES.

11. No failure by DES to enforce any provision of this Administrative Fine by Consent after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this agreement on any further breach or default.

Comac Pump & Well, LLC

COPY

By: Scott M. Costa

Duly Authorized Agent of Comac Pump & Well, LLC

Date

11-24-04

Department of Environmental Services

COPY

Harry T. Stewart, P.E., Director
Water Division

Date

12/12/04

COPY

Michael P. Nolin, Commissioner

Date

12 16 04

cc: Gretchen R. Hamel, DES Legal Unit, Administrator
Public Information Officer, DES PIP Office
Brian Boyer, Code Enforcement Officer, Alton, NH
Anne Edwards, Esq. – AGO
Jennifer J. Patterson, Esq. – AGO
Water Well Board